

Federal Personnel Manual System
FPM Bulletin

4 NOV 1983

Bulletin No. 610- 38

Washington, D. C. 20415
October 13, 1983

SUBJECT: Final Regulations on Alternative Work Schedules

Heads of Departments and Independent Establishments:

***An Information Notice on Changes to Federal Personnel
Regulations Is Attached to This Bulletin
This Notice Must Be Posted in a Prominent Place***

1. The Director of the Office of Personnel Management (OPM) is required to take steps to ensure that OPM regulations which apply to individuals or organizations outside OPM are posted in offices of Federal agencies maintaining copies of Federal personnel regulations [5 USC 1103(b)(2)(A)].
2. To carry out this responsibility, OPM issued regulations under Part 110 of 5 CFR which require agencies to (a) make available for review on request the regulatory material which appears as attachment 1 to this bulletin; and (b) complete and post the notice (attachment 2) in a prominent place.
3. Completion of the notice requires insertion of the room number where the regulations are available for review.
4. Individuals who wish to make comments on regulations or notices should address them to the OPM official whose mailing address is listed on the reprint of *Federal Register* material in attachment 1 of this bulletin.
5. The public comment period on proposed regulations begins when they are published in the *Federal Register*, or made available for public inspection at the Office of the Federal Register in Washington, D.C. Sometimes delays in distribution may result in posting notices on proposed regulations being received at agency field offices near the end of the comment period on a regulation. In other cases, the attached posting notice may convey information about a final regulation and no comments will be sought. In either case, the attached notice must still be posted. The purpose of the material is to provide notice rather than to solicit comment.
6. There is no maximum number of days which the attached notice must remain posted; each agency or office is free to make this determination. However, we suggest 10 working days as a minimum. The basic requirement is that there be sufficient opportunity for interested individuals to receive adequate notice of changes in the Federal personnel regulations.



Donald J. Devine
Director

Attachments (2)

Inquiries: Compensation Group, Office of Pay and Benefits Policy,
Benefits Analysis Division, (202) 632-4614

Code: 610, Hours of Duty

Distribution: Approved For Release 2005/08/03 : CIA-RDP92-00455R000100050003-7

U.S. GOVERNMENT PRINTING OFFICE: 1983-381-393: 1464

Bulletin Expires: October 20, 1984

OPM Form 654 PP (3/80)

44059

Rules and Regulations

Federal Register

Vol. 48, No. 188

Tuesday, September 27, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 610, 620, and 630

Hours of Duty: Alternative Work Schedules

AGENCY: Office of Personnel
Management.

ACTION: Final rulemaking.

SUMMARY: The Congress has passed legislation authorizing the Alternative Work Schedules (AWS) program for another three years. Pub. L. 95-390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, previously providing for the AWS experimental program, has been replaced by this non-experimental three-year program. The final regulations are similar to the proposed regulations published on September 17, 1982, (47 FR 41136) containing only a few changes for clarity, and will provide necessary direction to the agencies for administration of this law.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Raymond J. Kirk, (202) 632-4614.

SUPPLEMENTARY INFORMATION: On September 17, 1982, OPM published proposed regulations (47 FR 41136) for the administration of flexible and compressed work schedules established under subchapter II of chapter 61 of title 5, United States Code. Those regulations provided requirements for time accounting, treatment of holidays for full-time and part-time employees, and leave accrual for part-time employees. We received comments on those proposed regulations from six agencies, two labor organizations representing Federal employees, one private company and two individuals. Three of agencies indicated that they concurred with the proposed regulations as

published. The comments and our actions on those comments are summarized below.

The final regulations are similar to the proposed regulations and will provide necessary direction to the agencies for administration of this law. They contain only a few editorial changes for increased clarity and an added amendment to § 610.111.

Establishment of Workweeks

An amendment has been added to § 610.111 to clarify the relationship between flexible and compressed work schedules and work schedules established under subchapter 1 of chapter 61, title 5, United States Code. The final regulations establish that a flexible or compressed schedule is a scheduled tour of duty and all work performed by an employee within the basic work requirement is considered regularly scheduled work for premium pay and hours of duty purposes.

Time Accounting

Two agencies proposed that the regulations provide additional guidance on specific time accounting procedures that must be used. General guidance on time accounting for employees work flexible and compressed work schedules is contained in FPM Bulletin 610-35 and will be included in Book 610 of FPM Supplement 990-2. OPM is not regulating specific time accounting procedures in order to provide agencies with the flexibility needed to match time accounting procedures with the requirements of specific worksites. Therefore no additional time accounting requirements are being established.

The requirements established by the General Accounting Office for agencies regarding time accounting for Federal civilian employees may be found in §§ 17.2 and 17.3 of title 6 of the General Accounting Office Policies and Procedures Manual for Guidance of Federal Agencies.

Holidays

We had several comments about the treatment of holidays for part-time employees on flexible schedules, employees' entitlement to in-lieu-of days for holidays on compressed schedules, and employees' entitlement to basic pay for the number of hours of the compressed work schedule on a holiday.

The proposed regulations provided that a part-time employee on a flexible schedule is entitled to basic pay with respect to a holiday for the number of hours the employee is scheduled to work on that day. Two agencies suggested that the meaning of "scheduled" be clarified in the regulations. Guidance on the meanings of "scheduled," similar to that provided in Appendix C of Book 610, FPM Supplement 990-2, regarding excused absence in special circumstances (e.g., hazardous weather), will be provided to agencies in Book 610 so that they have the ability to administer these provisions in a manner which is most efficient for their individual cases. The three methods for determining the employee's typical schedule are: constant pattern of the schedule (e.g., employee always works eight hours on Mondays); predominant pattern of the schedule (e.g., employee has worked six hours four of the last five Mondays); and variable pattern of the schedule (e.g., since there is such variation in the employee's schedule that there is no discernible pattern, the average number of hours worked per day is the best estimate of the schedule.)

One union and one individual questioned whether employees are entitled to in-lieu-of days for holidays which fall on a day off under a compressed schedule. A nonworkday on a compressed schedule is no different from any other nonworkday, e.g., Saturday or Sunday. Under an AWS schedule a full-time employee is entitled to an in-lieu-of day if a holiday falls on a nonworkday. No special regulation is required. A part-time employee is not entitled to in-lieu-of holidays.

Two agencies commented that employees on compressed schedules should be limited to eight hours off on a holiday. The language of 5 U.S.C. 6128(d) governing premium pay for holidays is identical to the language in § 203 of Pub. L. 95-390. During the AWS Experimental Program, OPM had interpreted this section of the law to provide that employees were entitled to receive basic pay for the number of hours of the compressed work schedule on the holiday, e.g., on a 4-10 schedule employees receive 10 hours of base pay on a holiday. A Comptroller General decision (B-196653, December 31, 1979) concurred that OPM's determination was in accordance with the law. Therefore, we retained the provision in

44060 Federal Register / Vol. 48, No. 188 / Tuesday, September 27, 1983 / Rules and Regulations

the proposed regulations and in the final regulations.

Leave Administration

Two agencies commented that the regulations should contain guidance on administration of administrative leave and military leave. Administrative leave is administered the same for alternative work schedules as it is for other types of work schedules. That is, there is no change in the authority of the head of an agency to grant administrative leave. Guidance on the administration of administrative leave and military leave will be contained in Subchapter S4, Book 610, FPM Supplement 990-2 which is currently being developed.

Part-Time Employment

One agency suggested that the change to the definition of part-time employment in 5 U.S.C. 3401(2) made by Pub. L. 97-221 should be included in Part 610, 5 CFR. This recommendation has not been incorporated because part-time employment is dealt with in Part 340, and it is unnecessary to include it in Part 610.

Evaluation and Training

A private company commented on the need for training on and evaluation of alternative work schedules. In accordance with 5 U.S.C. 6133, OPM will provide appropriate educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining alternative work schedules. OPM will also evaluate the program's operation.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation concerns the pay and hours of duty of Federal employees only.

List of Subjects**5 CFR Part 610**

Government employees, Holidays, Wages.

5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, Parts 610, 620, and 630 of Title 5 of the Code of Federal Regulations are amended as follows:

PART 610—HOURS OF DUTY

1. In § 610.111, paragraphs (a)(1) and (2) are revised and paragraph (d) is added to read as follows:

§ 610.111 Establishment of workweeks.

(a) * * *

(1) A basic workweek of 40 hours which does not extend over more than 6 of any 7 consecutive days. Except as provided in paragraphs (b), (c), and (d) of this section, the regulation shall specify the days and hours within the administrative workweek that constitute the basic workweek.

(2) A regularly scheduled administrative workweek that consists of the 40-hour basic workweek established in accordance with paragraph (a)(1) of this section, plus the period of regular overtime work, if any, required of each employee. Except as provided in paragraphs (b), (c), and (d) of this section, the regulation, for purposes of leave and overtime pay administration, shall specify by days and hours of each day the periods included in the regularly scheduled administrative workweek that do not constitute a part of the basic workweek.

(d) When the head of an agency establishes a flexible or compressed work schedule under section 6122 or section 6127 of title 5, United States Code, he or she shall establish a basic work requirement for each employee as defined in section 6121 of title 5, United States Code. A flexible or compressed work schedule is a scheduled tour of duty and all work performed by an employee within the basic work requirement is considered regularly scheduled work for premium pay and hours of duty purposes.

2. Subpart D, §§ 610.401 through 610.408, is added to read as follows:

Subpart D—Flexible and Compressed Work Schedules

Sec.

610.401 General.

610.402 Coverage.

610.403 Definitions.

610.404 Requirement for time-accounting method.

610.405 Holiday for part-time employees on flexible work schedules.

610.406 Holiday for employees on compressed work schedules.

Sec.

610.407 Premium pay for holiday work for employees on compressed work schedules.

§ 610.401 General.

This subpart contains regulatory requirements prescribed by the Office of Personnel Management to implement certain provisions of subchapter 11 of chapter 61 of title 5, United States Code. These regulations supplement that subchapter and must be read together with it.

§ 610.402 Coverage.

The regulations contained in this subpart apply only to flexible work schedules and compressed work schedules established under subchapter 11 of chapter 61 of title 5, United States Code.

§ 610.403 Definitions.

In this subpart "Agency" and "Employee" have the meaning given these terms in section 6121 of title 5, United States Code.

§ 610.404 Requirement for time-accounting method.

An agency that authorizes a flexible work schedule or a compressed work schedule under this subpart shall establish a time-accounting method that will provide affirmative evidence that each employee subject to the schedule has worked the proper number of hours in a biweekly pay period.

§ 610.405 Holiday for part-time employees on flexible work schedules.

If a part-time employee is relieved or prevented from working on a day within the employee's scheduled tour of duty that is designated as a holiday by Federal statute or Executive order, the employee is entitled to basic pay with respect to the holiday for the number of hours the employee is scheduled to work on that day, not to exceed 8 hours. When a holiday falls on a nonworkday of a part-time employee, he or she is not entitled to an in-lieu-of day for that holiday.

§ 610.406 Holiday for employees on compressed work schedules.

(a) If a full-time employee is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, the employee is entitled to basic pay for the number of hours of the compressed work schedule on that day.

(b) If a part-time employee is relieved or prevented from working on a day within the employee's scheduled tour of duty that is designated as a holiday by Federal statute or Executive order, the employee is entitled to basic pay for the

Federal Register / Vol. 48, No. 188 / Tuesday, September 27, 1983 / Rules and Regulations 44061

number of hours of the compressed work schedule on that day. When a holiday falls on a nonworkday of a part-time employee, he or she is not entitled to an in-lieu-of day for that holiday.

§ 610.407 Premium pay for holiday work for employees on compressed work schedules.

An employee on a compressed schedule who performs work on a holiday is entitled to basic pay, plus premium pay at a rate equal to basic pay, for the work that is not in excess of the employee's compressed work schedule for that day. For hours worked on a holiday in excess of the compressed work schedule, a full-time employee is entitled to overtime pay under applicable provisions of law and a part-time employee is entitled to straight time pay or overtime pay, depending on whether the excess hours are nonovertime hours or overtime hours.

PART 620—[REMOVED]

3. Part 620 is removed from 5 CFR.

PART 630—ABSENCE AND LEAVE

4. The introductory text to § 630.303 is revised to read as follows:

§ 630.303 Part-time employees; earnings.

A part-time employee for whom there has been established in advance a regular tour of duty on 1 or more days during each administrative workweek, and a part-time employee on a flexible work schedule for whom there has been established only a biweekly work requirement, earn annual leave as follows:

(5 U.S.C. 6133(a))

[FR Doc. 83-26204 Filed 9-26-83; 8:45 am]

BILLING CODE 6325-01-M



United States
Office of
Personnel
Management

Notice of Changes to Title 5 of the Code of Federal Regulations

The Office of Personnel Management has issued final regulations on Alternative Work Schedules.

These regulations provide necessary direction to agencies for the administration of the Federal Employees Flexible and Compressed Work Schedules Act of 1982.

You can read a complete copy of the text at:

This notice expires on:

The Director of the Office of Personnel Management (OPM) is required to take steps to ensure that OPM regulations which apply to individuals or organizations outside OPM are posted in Federal agencies maintaining copies of the Federal personnel regulations [5 USC 1103(b)(2)(A)]. This notice, which should be posted in a prominent place, carries out that requirement.